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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/971,976	10/04/2001	Richard Lawn	32136191.10	5692

23562 7590 10/08/2003

BAKER & MCKENZIE  
PATENT DEPARTMENT  
2001 ROSS AVENUE  
SUITE 2300  
DALLAS, TX 75201

EXAMINER

RODRIGUEZ, PAUL L

ART UNIT	PAPER NUMBER
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2125

DATE MAILED: 10/08/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

PRG

# Office Action Summary

Application No.

09/971,976

Applicant(s)

LAWN ET AL.

Examiner

Paul L Rodriguez

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3. 6) ☐ Other:

### **DETAILED ACTION**

1. This action is in response to the amendment filed 9/8/03. Claims 1-6 are presented for examination.

#### ***Information Disclosure Statement***

2. Examiner has received and considered the two non-patent documents listed in the previous IDS. Another copy of the PTO-1449 is being provided, indicating the documents were considered.

#### ***Oath/Declaration***

3. Examiner acknowledges the newly submitted oath/declaration, which has been placed in the application file.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Yon et al (U.S. Pat 6,507,824). The claimed invention reads on Yon et al as follows:

Yon et al discloses (claim 1) an algorithm exchange (defined by applicant as linking users to developers and storing information regarding coloring algorithms, figure 1, reference number 14, col. 2 lines 48-50, col. 4 lines 26-41) for providing access to coloring algorithms (defined by applicant as used to calculate a resulting recipe or color recommendation, col. 3 lines 24-34, col.

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7 lines 45-67, examiner considers the selection of a specific product or vendor, tied to available colors as accessing a color algorithm because the selection of a product provides the potential customer with the “n” closest available colors, determination of the n closest colors is considered access to a recipe recommendation algorithm) said algorithm exchange comprising a server (reference numbers 20, col. 2 lines 48-50) for providing access to a plurality of coloring algorithms to a client (reference number 18) computer (col. 2 lines 48-50, col. 3 lines 29-34, col. 4 lines 26-28) and a database (reference number 16) for storing a plurality of color measurements for use as inputs to the coloring algorithms (col. 2 lines 30-33, col. 4 lines 26-34, col. 5 lines 1-20), (claim 2) wherein the database stores the plurality of coloring algorithms (col. 3 lines 29-34, col. 7 lines 51-62, database stores product, vendor and color data used to make color recommendations), (claim 3) wherein the server further comprises a computer readable medium (col. 8 lines 13-32) for storing a script program (defined by applicant to provide access to application programs and display web pages, col. 8 lines 3-21) said script program providing access to the plurality of coloring algorithms (col. 2 lines 39-50, col. 8 lines 3-11), (claim 4) a method for using a coloring algorithm (col. 1 lines 52-62, col. 3 lines 24-34), said method comprising receiving a selection from a client computer (reference number 18) of a particular one of a plurality of coloring algorithms (col. 3 lines 29-34, the selection of a product considered the selection of a specific color algorithm because colors are determined for the selected product) at a server (reference numbers 20) and receiving color measurements as inputs to the particular one of the plurality of coloring algorithms (col. 3 line 45 – col. 4 line 28), (claim 5) wherein receiving color measurements further comprises receiving a selection from the color measurements from a database at the server (col. 4 lines 26-50, col. 5 lines 1-9, “available colors”) and (claim 6) wherein receiving color measurements further comprises receiving the

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color measurements from the client computers (reference number 18, col. 3 line 45 – col. 4 line 28, “target color”).

***Response to Arguments***

6. Applicant's arguments filed 9/8/03 have been fully considered but they are not persuasive.

Regarding the objection to the claim of priority, the amendment corrected the objection and it has been withdrawn.

Regarding the IDS, the missing documents have been considered and an updated copy of the PTO-1449 is being provided.

Regarding the Oath/Declaration, the replacement declaration corrects the previous deficiencies and the objection is withdrawn.

Regarding the drawing objections, the replacement figure 2 corrects the previous deficiencies and the objections are withdrawn.

Regarding the specification objections, the amendment to the specification has corrected the specified objected to matter and the objections are withdrawn.

Regarding the rejections made under 35 USC § 112, the amendment to the claims has corrected the deficiencies and the rejections are withdrawn.

Regarding the rejections under 35 USC § 102, applicant argues that nothing in Yon teaches or suggests “an algorithm exchange for providing access to coloring algorithms” having a server for providing access to a plurality of coloring algorithms to a client computer”. The examiner has relied upon the definitions of terms provided by the applicant and definitions found in the Microsoft Computing Dictionary for applying the Yon reference.

Applicant defines:

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Algorithm Exchange - "The algorithm exchange can store information regarding the coloring algorithms of developers allowing users to review the information and selection a particular coloring algorithm best suited for the user's application". "The algorithm exchange includes a database for storage of color measurement associated with particular color samples". "The algorithm exchange links any number of users which use recipe generation algorithms and color recommendation algorithms and any number of developers which develop recipe generation algorithms and color recommendation algorithms"

Color Algorithm – recipe generation algorithms and color recommendation algorithms.

Recipe Prediction Algorithms - attempt to predict which ratio of basic colorants will give the nearest match of total reflectance to the target reflectance.

Color Recommendation Algorithms - attempt to tell users, which paint color will "look good" with a particular color.

Microsoft Computing Dictionary defines:

Server - On the Internet or other network, a computer or program that responds to commands from a client. For example, a file server may contain an archive of data or program files; when a client submits a request for a file, the server transfers a copy of the file to the client.

Client - On a local area network or the Internet, a computer that accesses shared network resources provided by another computer (called a *server*).

In response to applicants argument and based on the above definitions, figure 1 of Yon provides for the structure of the algorithm exchange by teaching the server 20, client computer 18, a database for storing a plurality of color measurements 16 (other databases also taught 35, 37 and "Enterprise Color DB") and the disclosure of Yon clearly teaches coloring algorithms, (col. 4 lines 26-41 and col. 5 lines 1-20). Applicant defines coloring algorithm as including the

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recipe prediction algorithm, recipe prediction algorithms are used to predict which color will give the nearest color match, Yon clearly teaches that the host computer 14 identifies, from available colors, the closeness of available colors. Examiner considers this portion of Yon to clearly teach the argued limitations. Applicant further goes on to argue that nothing in Yon would allow purchasers to access color algorithms. Examiner points to col. 5 lines 14-20 which clearly states that color determination results, which are considered accessing color algorithms, are sent back to the potential purchaser 18, over the network 12. Applicant's arguments are not persuasive and the rejections are maintained.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Iwaki et al (U.S. Pub 2003/0149504 A1) – teaches a server based access to color algorithms.

Graf et al (U.S. Pat 6,349,300) – teaches a client server structure for accessing coloring information.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul L Rodriguez whose telephone number is (703) 305-7399.

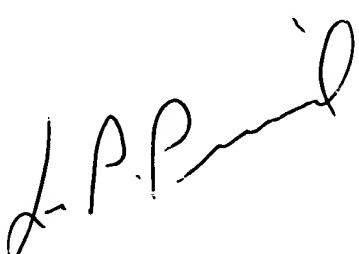
The examiner can normally be reached on 6:00 - 4:30 T-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo P Picard can be reached on (703) 308-0538. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9600.

Paul L Rodriguez  
Examiner  
Art Unit 2125

PLR  
10/2/03

A handwritten signature in black ink, appearing to read 'L. P. Picard', with a stylized flourish at the end.

LEO PICARD  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100